

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 03-00174-001-CG
)	
EDDIE LEE LUMPKIN,)	
)	
Defendant.)	

ORDER

This matter is before the court on defendant's Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2). (Doc.18).

On January 22, 2004, the defendant entered a guilty plea to counts one and two of the indictment in his case, charging, respectively, violations of 18 U.S.C. § 922(g)(1), possession of a firearm in and affecting commerce by a felon; and 18 U.S.C. § 922(j), receipt, possession or concealing a stolen firearm. He was sentenced on April 23, 2004 to 105 months on each count, to run concurrently.

The defendant now seeks to have his sentence modified because of an amendment to the Sentencing Guidelines that occurred and became effective prior to his being sentenced. He points to Amendments 599, 706, 711, 712 and 715 of the Guidelines. Only Amendment 599 concerns firearms offenses. That amendment's newly revised retroactivity has no effect on the defendant's guideline calculation for two reasons. First, the amended Guideline was in effect at the time of his sentencing, making its retroactivity meaningless to defendant's case. Second, the amendment did not pertain to any of the Guideline provisions used to calculate defendant's Sentencing Guideline range. The amendment pertained to Guideline § 2K2.4 - - cases in which

a defendant is convicted of using a firearm in connection with another offense, that is, violations of 18 U.S.C. §§ 844(h), 924(c) or 929(a). Lumpkin was convicted of being in possession of a firearm after conviction of a felony, and of possessing a stolen firearm. His Guideline was determined by Guideline §§ 3D1.2, 2K2.1, 3C1.2 and 3E1.1(a), without any reference to § 2K2.4.

Accordingly, defendant's motion is **DENIED**.

DONE and **ORDERED** this 1st day of July, 2008.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE